

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)
--	--------------------------

First named inventor: *John WILLIAM Tocher*Application No.: *09/981,060*Filed: *OCTOBER 18, 2001*Title: *ULTIMATE VENT*Art Unit: *3749* #13Examiner: *DEREK S. BOLES***RECEIVED**

AUG 05 2004

OFFICE OF PETITIONS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ _____ (37 CFR 1.17(m))

The PTO did not receive the following listed item(s). Check the issue fee 665.00

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

has been filed previously on _____.

is enclosed herewith.

- B. The issue fee of \$ 665.00.

has been paid previously on _____.

is enclosed herewith.

08/02/2004 CHNGUYEN 0000026 09981060

01 FC:2453

665.00 OP

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

July 22, 2004
Date

Telephone
Number: 403-219-3381

John William Tocher
Signature

John WILLIAM Tocher
Typed or printed name

46456 Portage Avenue
Address

Chilliwack B.C. Canada
Address

Enclosures: Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

July 22, 2004
Date

John William Tocher
Signature

John WILLIAM Tocher
Type or printed name of person signing certificate



John Wm. Tocher

46456 Portage Avenue,
Chillick, B.C. Canada.
V2P 3G2

Ms. Charlema Grant
Petitions Attorney
Office of Petitions
P.O. Box 1450
Alexandra, VA 22313-1450

June 30, 2004

Dear Ms. Grant;

RE: Application of John Wm. Tocher
Application No. 09/981.080
Filed: October 18, 2001
Title of Invention: ULTIMATE VENT

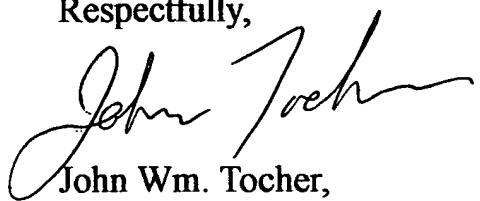
As per our telephone conversation regarding your letter of March 12, 2004 and my response of April 30, 2004, I wish to acknowledge receipt of your forms PTO/SB/64(11-03) to be completed with petition fees and a statement for the delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

A Petition to revive under 37 CFR 1.137(a) was dismissed due to the application becoming abandoned for failure to timely submit a response to the September 12, 2002 non-final Office Action. The Office Action did set a 3 month shortened statutory period for reply and a one month extension of time pursuant to 37 CFR S1.136(a) was obtained. A response was sent to the Office Action on January 8, 2003 and January 12, 2003 by UPS but delivery was refused.

On August 12, 2003 a response was mailed to The Commissioner for Patents at the United States Patent and Trade Mark Office in reply to his letter of July 16, 2003 on the decision on the petition under 37 CFR 1.137(a) was dismissed due to the application becoming abandon for failure to timely submit a response . (Copy attached)

Corrective action is taken to ensure the dispatch of this correspondence is in accordance with the certificate of mailing or transmission 37 CFR 1.8(a).

Respectfully,

A handwritten signature in black ink, appearing to read "John Tocher".

John Wm. Tocher,



RECEIVED

AUG 05 2004

Page 1

OFFICE OF PETITIONS

John William Tocher
18072 Beneta way
Tustin, CA. 92780

Commerisoner For Patents
United States Patent and Trade Mark Office
P.O. Box 1450,
Alexandria, VA 22313-1450

Aug 12, 2003

In re: Application of
John William Tocher
Application No. 09/981,060
Filed: October 18, 2001
Title of the Invention;Ultimate Vent

I have reviewed your letter of July 16th,2003 on the decision on the petition under 37CFR 1.137(a) was dismissed due to the application becoming abandoned for failure to timely submit a response to the September 12,2002 non-final office Action. The Office Action did set a 3month shortened statutory period for reply.A one month extension of time pursuant to 37CFR S1.136(a)was obtained. However a response was sent to the Office Action but was not received. Accordingly, the application became abandoned on January 29,2003 A notice of Abandonment was mailed on May6,2003 and it was received.

It was also noted That the Petitioner had not provided sufficient evidence to establish unavoidable delay and that why the envelope was refused nor evidence of refusal.

As per your recommendation for renewed petition, that the Petitioner should supply any evidence which may assist in establishing unavoidable delay. Also, the Petitioner should supply any documentation from UPS which establishes the envelop was refused and the Petitioner should provide a statement as to how and what Larry Schwartz " straightened out".

On January 6, 2003 an envelope containing the response to the Office Action was sent to the U.S. Patent and Trade Mark Office by UPS but was refused. Attached is item (a)UPS tracking record of parcel # w750 215 405 9 that is explanatory as to Dates of delivery, two places were it was accepted and signed for and final date it was accepted, the UPS delivery document showing the correct date and address that we've always corresponded with.

On January 23, 2003 I spoke to Mr. Larry Schwartz, SPE of 3700 who "straightened it out". Attached is item (b) relate to Mr. Larry Swartz Action in this matter.

Pg2

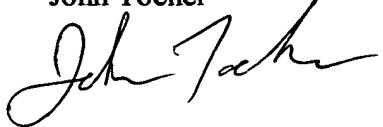
The petitioner acknowledges the providing of a receipt (receipts) for UPS service and the application fees of \$55.00 & \$26.70 to date.

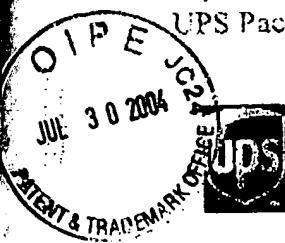
Delay in resubmitting this document is due to difficulty in obtaining tracking records from UPS and Mr Larry Swartz was absent.

Re: mailing address, due to September 11, we thought it was better to use my uncle's address in California because of problems with the mail; we're in closing the change of address.

Respectfully yours

John Tocher

A handwritten signature in black ink, appearing to read "John Tocher".



UPS Package Tracking

[Home](#) | [About UPS](#) | [Contact UPS](#)**Tracking**

- [Track by Tracking Number](#)
- [Delivery Reference Number](#)
- [Import Tracking Numbers](#)
- [Track by E-mail](#)
- [Our Inbound/Outbound Policy](#)
- [Void a Shipment](#)
- [FAQs](#)



Want instant proof of delivery? Click here.

UPS Signature Tracking™

 [cathy belanger](#) | [Logout](#)

[My UPS](#) | [Address](#)

Track by Tracking Number

View Details

To view Proof of Delivery, please select the link.

Status: Delivered [Proof of Delivery](#) 
Delivered on: 22 Jan 2003 9:20
Signed by: RATSCHACK
Location: RECEIVER
Delivered to: ARLINGTON, VA, US

Tracking Number: W750 2154 059
Service Type: WORLDWIDE SERVICES

 Information and services provided to My UPS users.

Have problems or questions about your package?

If you have questions about one of your packages, you can find more information with this special UPS service.
[Request More Information](#) 

Package Progress:

Date	Time	Location	Activity
23 Jan 2003	10:00	LOUISVILLE, KY, US	TRANSFER NOTIFICATION FOR FOR DELIV/EXCEPTION RESOL NOTIFICATION-CLOSED;UPS INTERNAL ACTIVITY CODE
22 Jan 2003	9:20	ALEXANDRIA, VA, US	DELIVERY
21 Jan 2003	13:51	LANDOVER, DC, US	COMPANY OR PERSON UNKNO NOT DELIVERED;ADDRESS CORRECTED, DELIVERY RESCHEDULED
20 Jan 2003	13:13	LOUISVILLE, KY, US	RECEIVER DID NOT WANT, RE DELIVERY;EXCEPTION RESOL NOTIFICATION-OPEN
17 Jan 2003	19:53	LANDOVER, DC, US	CONSIGNEE NOT ACCEPTING DELIVERY;UNDELIVERABLE IN PACKAGE, ISRG CALLED
16 Jan 2003	9:48	LANDOVER, DC, US	RECEIVER DID NOT WANT, RE DELIVERY
15 Jan 2003	9:44	LANDOVER, DC, US	DELIVERY
14 Jan 2003	14:17	ALEXANDRIA, VA, US	CORRECT STREET # NEEDED, DELIVERED;ADDRESS CORRECTED
9 Jan 2003	10:25	ALEXANDRIA, VA, US	DELIVERY RESCHEDULED
7 Jan 2003	20:29	LANDOVER, DC, US	RECEIVER DID NOT WANT, RE DELIVERY
	9:33	LANDOVER, DC, US	INCOMPLETE ADDRESS, NOT DELIVERED;ADDRESS CORRECTED
			DELIVERY RESCHEDULED
			SUITE NUMBER NEEDED, NOT DELIVERED

Tracking results provided by UPS: 8 Aug 2003 11:14 Eastern Time

NOTICE: UPS authorizes you to use UPS tracking systems solely to track shipments tendered by or for you to deliver and for no other purpose. Any other use of UPS tracking systems and information is strictly prohibited.

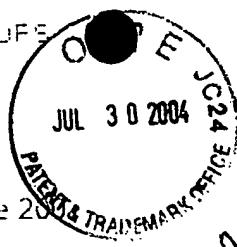
[← Back to Tracking Summary](#)

[↑ Back to Top](#)

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UPS Canada Ltd.
Customer Service
1 Factory Lane, Suite 2004
Moncton, NB
E1C 9M3

Phone: 1-800-PICK-UPS
1-800-742-5877
Fax: 1-800-294-4555



Item A



Fax

FORTUNE SURVEY
RATES UPS

The  **WORLD'S**
Most Admired
Delivery Company

www.ups.ca

To: John

From: Cathy

Company:

Rep# / Grp#: 39

Fax: 403 219 3354

Pages: 2

(Includes Cover Page)

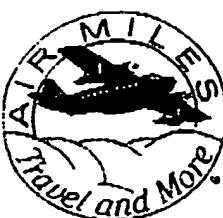
Phone:

CC:

RE:

Comments: Here is the tracking detail you
asked for

Now you can earn AIR MILES reward miles when you ship UPS
Call 1-800-PICK-UPS for details





United Parcel Service

July 26, 2004
Shipper 500X96
Page 1 of 2

ATTN : JOHN TOKER
PHONE : (403)219-3381



DELIVERY NOTIFICATION

FAX RESPONSE

INQUIRY FROM: JOHN TOKER
JOHN TOKER
SUITE 412 300 8120 BEDDINGTON
CALGARY AB T3K-2A8

SHIPMENT TO: PATTON OFFICE
2900 CRYSTAL DR STE 3B30
ARLINGTON VA 22202

Shipper Number.....500X96

Tracking Identification Number...W7502154059

According to our records 1 parcel was delivered on 01/22/03 at 9:20 A.M., and left at 3B303B30. The shipment was signed for by RATSCHACK as follows:

SHIPPER NUMBER	PKG ID NO.	TRACKING NUMBER	ADDRESS (NO/STREET, CITY)	SIGNATURE
500X96	L	W7502154059	2900 CRYSTAL DR STE 3B30 ARLINGTON	RATSCHACK

CAN1PXi:000A0000

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United Parcel Service



July 29, 2003
Upper 500X96
Page 2 of 2

ATTN : JOHN TOKER
PHONE : (403)219-3381

DELIVERY NOTIFICATION

FAX RESPONSE

INQUIRY FROM: JOHN TOKER
JOHN TOKER
SUITE 412 300 8120 BEDDINGTON
CALGARY AB T3K-2A8

SHIPMENT TO: PATTON OFFICE
500 E ST SW
WASHINGTON DC 20024

Shipper Number.....500X96

Tracking Identification Number...W7502154059

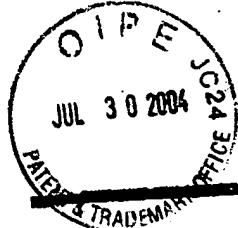
According to our records 1 parcel was delivered on 01/15/03 at 9:44 A.M., and left at **RECEPTION**. The shipment was signed for by **WOLFE** as follows:

SHIPPER NUMBER	PKG ID NO.	TRACKING NUMBER	ADDRESS (NO./STREET,CITY)	SIGNATURE
500X96	-	W7502154059	500 E ST SW WASHINGTON	John Toker, Wolfe

68-14-03 THU 13:54 FAX 703 3087957

US PATENT OFFICE

Item B



Larry I. Schwartz

United States Patent & Trademark Office
Customer Service Center, Technology Center 3700



703/306-5648

Date: 8/14/03

Total # of pages including cover sheet: 3

To: John Tocher

Recipient Fax: 403-219-3354

From: Larry I. Schwartz
Administrator
Customer Service Center

Sender Fax: 703-872-9301

Memo:

Attached is a copy of the database screens for SN 09/981,060 showing that we spoke on 1/23/03 and that you had reported that the Office would not accept delivery of your papers.

Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax

Exit**NEW
INQUIRY**

Application Number: [600001000]

Log Number: [1234567]

Contact Type: [Telephone]

Date of First Contact: [23-Jan-03]

Reason Category: [INFO REQUEST]

Reason for Inquiry: [Information Request]

INQUIRER'S INFORMATIONInquiry Type: Industrial Invention

Customer Number: [123456789]

First Name: [John]

Street Address: [123 Main St]

Last Name: [Doe]

City: [Anytown]

Email: [jdoe@anywhere.com]

State: [CA]

Phone: [555-1234]

Zip/Postal Code: [90210]

Country: [United States]

Type of Application: [Utility]

Patent Number: [123456789]

Prosecution Status: [Not Yet Filed]

Atty. Docket No: [123456789]

Application File: [123456789]

Comments: [Information Request]

Explanation of Initial Inquiry:
[Explain inquiry via UPS office would not accept it for delivery]**ACTION TAKEN**

Category:

Action:

Action Date:

Taken By:

View Action History

Action Explanation:

P. Reserved

Time Invested: [80 Minutes]

Is a Follow-Up needed? Yes No

Projected Follow-Up Completion Date:

Comments:

PALM INFORMATION

Connection:	<input checked="" type="checkbox"/> By Application Number
PALM Info:	<input type="checkbox"/> By Patent Number

View PALM

History





Action Taken	Date of Action	File No.	Case No.	Entered
	09/981,060	124307	124307	124307
Action Taken	09/981,060			
Action Explanation				
Spoke to Delora Dillard and was told to have him ask UPS to resubmit package. There is no reason why package was rejected!				

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PAGE 02

08/01/2003 08:19

PLEASE NOTE: SEE INSTRUCTIONS ON BACK. SHIPPER'S IDENTIFICATION NO. [REDACTED] FOR CUSTOMS PURPOSES.

NAME OF SENDER <i>John Tocher</i>	TELEPHONE NO. (Many important) <i>219-3381</i>
COMPANY NAME AND ADDRESS (Include Postal Code) <i>Sur-T 300-8120 Beddington Blk N W A/B Twp C/H Country</i>	
DECONSIGNEE'S UPS ACCOUNT NO. <i>Mr. Derek Bohensky Commissioner for Patents U.S. Patent & Trademark Office Washington D.C. 20231</i>	
NAME OF CONTACT PERSON	TELEPHONE NO. (Very Important)
COMPANY NAME AND ADDRESS (Include Postal Code)	
DEPARTMENT OR DIVISION	
COUNTRY	
PAYMENT OF CHARGES	
<input checked="" type="checkbox"/> PREPAID <input type="checkbox"/> COLLECT <input type="checkbox"/> FOR FORWARDER <input type="checkbox"/> FOR CARRIER <input type="checkbox"/> FOR OTHER <input type="checkbox"/> FOR FORWARDER AND CARRIER <input type="checkbox"/> FOR CARRIER AND OTHER <input type="checkbox"/> FOR FORWARDER, CARRIER AND OTHER	
<input type="checkbox"/> DELIVERED DUTY PAID <input type="checkbox"/> SUBMIT TO SHIPPER <input type="checkbox"/> VALUABLE <input type="checkbox"/> SHIPPING DOCUMENTS <input type="checkbox"/> INSURANCE <input type="checkbox"/> REFUNDABLE <input type="checkbox"/> REFUNDABLE AND VALUABLE <input type="checkbox"/> REFUNDABLE AND INSURANCE <input type="checkbox"/> REFUNDABLE AND INSURANCE AND VALUABLE	
SHIPPER'S POSITION OF SHIPPING CHARGES AS INDICATED BELOW <input type="checkbox"/> THE SHIPPER WILL PAY TO THE CARRIER <input type="checkbox"/> THE CARRIER WILL PAY TO THE SHIPPER <input type="checkbox"/> THE SHIPPER WILL PAY TO THE FORWARDER <input type="checkbox"/> THE FORWARDER WILL PAY TO THE SHIPPER <input type="checkbox"/> THE FORWARDER WILL PAY TO THE CARRIER <input type="checkbox"/> THE CARRIER WILL PAY TO THE FORWARDER <input type="checkbox"/> THE FORWARDER WILL PAY TO THE CARRIER <input type="checkbox"/> THE CARRIER WILL PAY TO THE FORWARDER	
SHIPPER'S COMPANY NAME <i>John Tocher</i>	
SHIPPER'S IDENTIFICATION NO. <i>4032566443</i>	



SHIPPERS COPY

**UPS Worldwide Services Waybill
(Non-Negotiable)**

UPS Waybill / Tracking No. *W750 177 003 7*

7 SPECIAL INSTRUCTIONS

**SATURDAY DELIVERY
EARLY A.M. and EXPRESS ONLY**
For delivery to business locations

**VERBAL CONFIRMATION OF DELIVERY
EARLY A.M. ONLY**
For business locations

OTHER - RECORD INSTRUCTIONS BELOW

8 CUSTOMS BROKER INFORMATION
John Tocher

9 DATE OF SHIPMENT
7/30/04

RECEIPT OF SHIPMENT BY
John Tocher

TIME
12:15

SHIPPING CHARGES
\$25.85

UPS ORIGIN: When applicable, use previous line of Shippers Copy to calculate charges. Record total here.

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Scotiabank™

100 - 3508 - 32 AVENUE N E
CALGARY AB T1Y 6J2

INTERNATIONAL MONEY ORDER

UNITED STATES DOLLARS

1579111963

DATE

July 22 2004

\$665.00

U.S. DOLLARS

PAY TO ORDER OF

COMMISSIONER OF PATENTS
SCOTIABANK 565004

SUM OF

NOT TO EXCEED ONE THOUSAND U.S. DOLLARS

AUTH NO.
M353

THE BANK OF NOVA SCOTIA

D. Morris

TO:
Deutsche Bank Trust Company Delaware
WILMINGTON, DELAWARE

CHIEF FINANCIAL OFFICER

Enobla

COUNTERSIGNED

JUL 30 2004



1579111963 0311003800 00590178

Scotiabank™

100 - 3508 - 32 AVENUE N E
CALGARY AB T1Y 6J2

INTERNATIONAL MONEY ORDER

UNITED STATES DOLLARS

CUSTOMER COPY

TELLER NO.	855
DATE	22-2004
AMT (U.S.\$)	665.00
EXCHANGE	26.25/77
EXCH. RATE	26.25/77
COMMISSION	12
OTHER	15
TOTAL COST	858.77
PURCHASER: FOR YOUR PROTECTION PLEASE IMMEDIATELY INSERT THE NAME OF THE PAYEE ON THE MONEY ORDER, DETACH AND RETAIN THIS RECEIPT. IN THE EVENT OF THE LOSS OF THE CORRESPONDING MONEY ORDER, THE ISSUING BRANCH WILL REFUND THE AMOUNT EXPRESSED ON THE MONEY ORDER ON SURRENDER OF THIS RECEIPT AND A SATISFACTORY GUARANTEE.	
<i>Commissioner of Patents</i>	
PATENTS	
PAYEE (Optional)	

1579111963

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